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KERALA GAZETTE

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NOTIFICATION

No. LA. 4-169/58.

Dated, Trivandrum, 12th February 1958.

The following Bill together with the Statement of Objects and Reasons and the Financial Memorandum attached to it, is published, as ordered by the Speaker under Rule 73 of the Rules of Procedure and Conduct of Business in the Assembly.

Legislature Secretariat,
Trivandrum.

V. KRISHNAMOORTHY,
Secretary,
Legislative Assembly.

THE KERALA BUILDINGS (LEASE AND RENT CONTROL) BILL, 1958.

A

BILL

to regulate the letting on lease of buildings and to control the rent of such buildings in the State of Kerala.

WHEREAS it is expedient to regulate the letting of buildings and to control the rents of such buildings and to prevent unreasonable eviction of tenants therefrom in the State of Kerala;

BE it enacted in the Ninth Year of the Republic of India as follows:—

1. *Short title, application, commencement and duration.*—(1) This Act may be called the Kerala Buildings (Lease and Rent Control) Act, 1958.

(2) It applies to the areas mentioned in the Schedule.

(3) The Government may, by notification in the Gazette, apply all or any of the provisions of this Act to any other area in the State with effect from such date as may be specified in the notification and may, by like notification, cancel or modify such notification or modify the Schedule:

Provided that no such notification shall be issued unless it is supported by a resolution passed by the local authority or authorities, if any, of the areas affected by the notification.

(4) It shall come into force at once.

2. *Definitions.*—In this Act, unless the context otherwise requires,

(1) "building" means any building or hut or part of a building or hut, let or to be let separately for residential or non-residential purposes and includes—

(*a*) the garden, grounds and out-houses, if any, appurtenant to such building, hut or part of such building or hut and let or to be let along with such building or hut,

(*b*) any furniture supplied by the landlord for use in such building or hut or part of a building or hut,

but does not include a room in a hotel or boarding house;

(2) "Accommodation Controller" means any person appointed to perform the functions of an Accommodation Controller under this Act;

(3) "Advisory Board" means the board constituted under Section 4;

(4) "landlord" includes the person who is receiving or is entitled to receive the rent of a building, whether on his own account or on behalf of another or on behalf of himself and others or as an agent, trustee, executor, administrator, receiver or guardian or who would so receive the rent or be entitled to receive the rent, if the building were let to a tenant;

Explanation:—A tenant who sub-lets shall be deemed to be a landlord within the meaning of this Act in relation to the sub-tenant.

(5) "Prescribed" means prescribed by rules made under this Act;

(6) "Rent Control Court" means the Court constituted under Section 3;

(7) "tenant" means any person by whom or on whose account rent is payable for a building and includes the surviving spouse, or any son or daughter, of a deceased tenant who had been living with the tenant in the building as a member of the tenant's family up to the death of the tenant and a person continuing in possession after the termination of the tenancy in his favour, but does not include a person placed in occupation of a building by its tenant or a person to whom the collection of rents or fees in a public market, cartstand or slaughter-house or of rents for shops has been farmed out or leased by a municipal council or local board or Panchayat or the Corporation of Trivandrum.

3. *Constitution of Rent Control Courts and appointment of Accommodations Controllers.*—(1) The Government may, by notification in the Gazette, constitute a Rent Control Court for such areas as may be specified in the notification consisting of one or more persons possessing such qualifications as may be prescribed:

Provided that if the Court consists of only one person, then such person, and if the Court consists of more than one person, at least one of them shall be a person, not lower in rank than a Munsiff, or a Revenue Divisional Officer.

(2) The Government may, by notification in the Gazette, appoint any Officer to be the Accommodation Controller for any area to which this Act applies.

4. *Constitution of Advisory Board.*—(1) The Government may constitute an Advisory Board to aid and advise the Accommodation Controller in the exercise of his functions under this Act.

(2) The Advisory Board shall be constituted with the following persons as its members:—

(i) In the City of Trivandrum or in any Municipal or in any Panchayat area, the Mayor, the Chairman of the Municipal Council or the President of the Panchayat concerned respectively;

(ii) The members of the Legislative Assembly representing that area in the Legislative Assembly; and

(iii) One other permanent resident of the local area nominated by the District Collector.

5. *Notice of vacancy.*—(1) (a) Every landlord shall, within fifteen days after the building becomes vacant by his ceasing to occupy it, or by the termination of a tenancy, or by release from requisition by the Government or any other competent authority give notice of the vacancy in writing to the Accommodation Controller:

Provided that this sub-section shall not apply to a building in respect of which the landlord has obtained an order for possession on any of the grounds specified in sub-sections (3), (7) and (8) of Section 12.

(b) Every notice given under clause (a) shall contain such particulars as may be prescribed.

(2) In any municipality including the City of Trivandrum or in any other area to which this Act applies and this Section has been specifically extended by notification if the tenant of a building puts another person in occupation thereof and does not re-occupy it within a period of three months, then, on the expiry of such period, the tenancy shall be deemed to have terminated and it shall be the duty of the tenant, and also of the landlord if he is aware of such termination, to give notice thereof in writing to the Accommodation Controller within fifteen days of such termination:

Provided that where the tenant obtains written permission from the Accommodation Controller to re-occupy the building within a period of six months, this sub-section shall have effect as if for the period of three months specified therein a period of six months were substituted.

Explanation:—This sub-section shall not apply where the building has been sub-let by a tenant entitled to do so, after giving due notice to the Accommodation Controller under sub-section (1) and in conformity with the provisions of this section.

(3) If, within fifteen days of the receipt by the Accommodation Controller of a notice under sub-section (1) or sub-section (2), the Government or the Accommodation Controller does not intimate to the landlord in writing that the building is required for the purposes of the State or Central Government or of any local authority or of any public institution under the control of any such Government or for the occupation of any officer of such Government, or local authority or for the occupation of such class of non officials as may be prescribed having regard to the importance of their service to society, the landlord shall be at liberty to let the building to any tenant or to occupy it himself.

(4) The landlord shall not let the building to a tenant or occupy it himself, before the expiry of the period of fifteen days specified in sub-section (3) unless in the meantime he has received intimation that the building is not required for the purposes or for occupation by any of the persons specified in that sub-section.

(5) If the building is required for the purposes of the State or Central Government or local authority or any public institution under the control of any such Government or for the occupation of any officer of such Government or local authority or for occupation by any of the persons specified in sub-section (3), the landlord shall deliver possession of the building to the Accommodation Controller and the Government shall be deemed to be the tenant of the landlord, with retrospective effect from the date on which the Accommodation Controller received notice under sub-section (1) or sub-section (2), the terms of the tenancy

being such as may be agreed upon between the landlord and the tenant and in default of an agreement, as may be determined by the Subordinate Judge's Court having original jurisdiction over the area in which the building is situated or, if there is no such Court, by the District Court:

Provided that the rent payable shall be the fair rent, if any, fixed for the building under the provisions of this Act; and if no fair rent has been so fixed, such fair rent as may be determined by the Court aforesaid in accordance with the provisions of this Act:

Provided further that if the building is a residential building, it shall not be converted into a non-residential building unless the permission in writing of the Accommodation Controller is obtained under section 18, sub-section (1):

Provided also that no structural alterations shall be made in the building, unless the consent of the landlord is also obtained therefor.

(6) In cases not falling under sub-section (5) where the landlord lets the building to any tenant after giving notice to the Accommodation Controller under sub-section (1) or sub-section (2) and without having occupied the building himself, the tenancy shall be deemed to have been antedated by the number of days during which the landlord was prohibited from letting the building to any tenant by virtue of sub-section (4), and the tenant shall be liable to pay rent for those days also.

(7) (a) where a landlord has two or more residential buildings in the same city, town or village and they have not been let by him the landlord may choose any one of such buildings for his own occupation and shall give notice to the Accommodation Controller of the building so chosen by him and of every other building not so chosen.

(b) when giving notice as aforesaid, the landlord shall also specify therein—

(i) whether any building other than the one chosen by him under clause (a) has been continuously in the occupation of any member of his family or of any dependent of the landlord; or

(ii) whether he requires any such building for the occupation of any member of his family.

(c) In the case referred to in sub-clause (i) of clause (b), the Accommodation Controller may, if he is satisfied that the occupation of the building by any member of the family, or of any dependent of the landlord is *bona fide*, make an order permitting the landlord to allow such member or dependent to continue to occupy the building; and if the Accommodation Controller is not so satisfied, he shall make an order refusing such permission.

(d) In the case referred to in sub-clause (ii) of clause (b), the Accommodation Controller may, if he is satisfied that the building is required by any member of the family of the landlord *bona fide* for such occupation, make an order permitting the landlord to allow such member to occupy the building; and if the Accommodation Controller is not so satisfied, he shall make an order refusing such permission.

(e) Any landlord who is aggrieved by any order passed by the Accommodation Controller under clause (c) or clause (d) may, within fifteen days from the date of the receipt of such order, prefer an appeal in writing to the District Collector within whose jurisdiction the building in respect of which the order appealed against is situate and he shall pass such orders on the appeal as he may think fit.

(f) Every notice given by the landlord under clause (a) shall, in so far as it relates to any building other than the one chosen by him for his own occupation, be deemed to be a notice under sub-section (1):

Provided that in respect of any building referred to in clause (a), the provisions of sub-section (3) shall apply as if notice had been given by the landlord under sub-section (1) immediately after the lapse of a period of fifteen days from the date of receipt by the landlord of the order passed by the Accommodation Controller or, if an appeal has been preferred to the District Collector against that order within that period, as if notice had been given as aforesaid by the landlord on the date of the order passed on the appeal.

(8) (a) Any officer empowered by the Government in this behalf may summarily dispossess—

(i) any landlord, tenant or other person occupying any building in contravention of the provisions of this section or any landlord who fails to deliver to the Government possession of any building in respect of which they are deemed to be the tenant by virtue of this section, or

(ii) any officer, person, local authority or public institution continuing to occupy, or failing to deliver possession of, any building in respect of which the Government are deemed to be the tenant by virtue of this section, after the termination of his or its licence to occupy such building, and take possession of the building including any portion thereof which may have been sub-let:

Provided that in cases where any landlord has been refused permission for the occupation of a building under clause (c) or clause (d) or subsection (7), not less than one week's notice shall be given before action is taken under this subsection.

(b) If free access to the building is not afforded to the officer empowered under clause (a), he may, after giving reasonable warning and facility to withdraw to any woman not appearing in public according to the customs of the country, remove or open any lock or bolt or break open any door or do any other act necessary for effecting such dispossession.

(c) Any landlord, tenant or other person or any officer, local authority or public institution, liable to be summarily dispossessed under clause (a), shall pay to the Government—

(i) the fair rent payable for the building under the provisions of this Act for the period of his or its occupation or possession thereof as described in that clause; and

(ii) the expenses, if any, incurred by the Government in effecting such summary dispossession, as determined by them, which determination shall be final.

(9) Nothing contained in this section shall apply (a) to a building the monthly rent of which does not exceed fifteen rupees; or

(b) to any building or buildings in the same city, town, or village, owned by any company, association or firm, whether incorporated or not, and *bona fide* intended solely for the occupation of its officers, servants or agents.

6. *Determination of fair rent.*—(1) The Rent Control Court shall, on application of the tenant or landlord of a building, fix the fair rent for such building after holding such enquiry as it thinks fit.

(2) In fixing the fair rent the court shall take into consideration the property tax fixed for the building during the 5 years immediately preceding the letting, in the property tax register of the Corporation of Trivandrum if the building is in the City of Trivandrum or in the property tax register of the Municipal Council, the Panchayat or other local authority as the case may be:

Provided that the fair rent fixed may in proper cases be lower than, but shall in no case exceed by more than 15 per cent of the monthly rent on the basis of which the property tax for the building has been fixed for the five years immediately preceding the letting.

(3) If there is no property tax fixed for the building for the 5 years immediately preceding the letting or it is not based on a rental basis or the building is situated in an area which is or has not been during the aforesaid period a Municipality, Panchayat or other local authority, the fair rent shall be so fixed as to give the landlord 3½ per cent interest on capital cost of the building.

7. *Increase in fair rent in what cases admissible.*—(1) When the fair rent of a building has been fixed under this Act, no further increase in such fair rent shall be permissible except in cases where some addition, improvement or alteration has been carried out at the landlord's expense at the request of the tenant and if the building is then in the occupation of a tenant:

Provided that the fair rent as increased under this sub-section shall not exceed the fair rent payable under this Act for a similar building in the same locality with such additional improvement or alteration and it shall not be chargeable until such addition, improvement or alteration has been completed:

Provided further that any dispute between the landlord and tenant in regard to any increase claimed under this sub-section shall be decided by the Rent Control Court.

(2) Where, after the fair rent of a building has been fixed under this Act, there is a decrease or diminution in the accommodation or amenities provided, the tenant may claim a reduction in the fair rent as so fixed, and any dispute between the landlord and the tenant in regard to any reduction so claimed shall be decided by the Rent Control Court.

8. *Increase of rent in certain cases.*—(1) Where the amount of the taxes and cesses payable by the landlord in respect of any building to a local authority has increased after fixation of the fair rent such increase shall be recoverable by the landlord from the tenant.

(2) Any dispute between the landlord and the tenant in regard to any increase claimed under sub-section (1) shall be decided by the Rent Control Court.

9. *Landlord not to claim or receive anything in excess of fair rent or agreed rent.*—(1) Where the Rent Control Court has determined the fair rent of a building—

(a) the landlord shall not claim, receive or stipulate for the payment of (i) any premium or other like sum in addition to such fair rent, or (ii) save as provided in section 7 or section 8 anything in excess of such fair rent:

Provided that the landlord may receive, or stipulate for the payment of an amount not exceeding two months' rent, by way of advance;

(b) save as provided in clause (a) any premium or other like sum or any rent paid in addition to, or in excess of such fair rent, whether before or after the commencement of this Act, in consideration of the grant, continuance or renewal of the tenancy of the building after such commencement shall be refunded by the landlord to the person by whom it was paid or at the option of such person, shall be otherwise adjusted by the landlord:

Provided that where before the determination of the fair rent, rent has been paid in excess thereof, the refund or adjustment shall be limited to the amount paid in excess for a period of one year immediately before institution of any proceedings for such determination.

(2) Where the fair rent of a building has not been so determined—

(a) the landlord shall not, claim, receive or stipulate for the payment of, any premium or other like sum in addition to the agreed rent:

Provided that the landlord may receive, or stipulate for the payment of, an amount not exceeding two months' rent, by way of advance;

(b) Save as provided in clause (a), any sum paid in excess of the agreed rent, in consideration of the grant, continuance or renewal of the tenancy of the building after such commencement, shall be refunded by the landlord to the person by whom it was paid or, at the option of such person, shall be otherwise adjusted by the landlord.

(3) Any stipulation in contravention of sub-section (1) or sub-section (2) shall be null and void.

10. *Right of tenant paying rent or advance to receipt.*—(1) Every tenant who makes a payment on account of rent or advance shall be entitled to obtain a receipt in the prescribed form for the amount paid duly signed by the landlord or his authorised agent.

(2) Where a landlord refuses to accept, or evades the receipt of, any rent lawfully payable to him by a tenant in respect of any building, the tenant may by notice in writing, require the landlord to specify within ten days from the date of receipt of the notice by him, a bank into which the rent may be deposited by the tenant to the credit of the landlord :

Provided that such bank shall be one situated in the city, town or village in which the building is situated or if there is no such bank in such city, town or village, within three miles of the limits thereof.

Explanation:— It shall be open to the landlord to specify from time to time by a written notice to the tenant and subject to the proviso aforesaid, a bank different from the one already specified by him under this sub-section.

(3) If the landlord specifies a bank as aforesaid, the tenant shall deposit the rent in the bank and shall continue to deposit in it any rent which may subsequently become due in respect of the building.

(4) If the landlord does not specify a bank as aforesaid, the tenant shall remit the rent to the landlord by money order, after deducting the money order commission and continue to remit any rent which may subsequently become due in respect of the building in the same manner until the landlord signifies by a written notice to the tenant his willingness to accept the rent or specifies a bank in which the rent shall be deposited in accordance with the provisions of sub-section (2).

11. *Right of tenant to deposit rent in certain cases.*—(1) Where the address of the landlord or his authorised agent is not known to the tenant, he may deposit the rent lawfully payable to the landlord in respect of the building together with such fee as may be prescribed for the service of the notice referred to in sub-section (2), before such authority and in such manner as may be prescribed, and continue to deposit any rent which may subsequently become due in respect of the building, together with the fee prescribed, as aforesaid, before the same authority and in the same manner until the address of the landlord or his authorised agent becomes known to the tenant.

(2) When any deposit is made under sub-section (1) the Rent Control Court shall cause notice of the deposit to be served by affixure at the last known place of residence of the landlord

and in such other manner as may be prescribed; and the amount deposited may, subject to such conditions as may be prescribed, be withdrawn by the land-lord on application made by him to the Rent Control Court in that behalf.

(3) Where any *bona fide* doubt or dispute arises as to the person who is entitled to receive the rent for any building the tenant may deposit such rent before such authority and in such manner as may be prescribed and shall report to the Rent Control Court the circumstances under which such deposit was made by him, and may continue to deposit any rent which may subsequently become due in respect of the building before the same authority and in the same manner until the doubt is removed or the dispute is settled by the decision of a competent Court or by a settlement between the parties or until the Rent Control Court makes an order under subsection (4), clause (b), as the case may be.

(4) (a) The Rent Control Court to whom a report is made under subsection (3) shall, if satisfied that a *bona fide* doubt or dispute exists in the matter, direct that, pending removal of the doubt or settlement of the dispute as aforesaid, the deposit be held by the authority concerned.

(b) If the Rent Control Court is not so satisfied, it shall forthwith order payment of the amount deposited to the land-lord.

(5) Where the Rent Control Court passes an order under subsection (4), clause (a), any amount or amounts deposited under subsection (3) may be withdrawn only by the person who is declared by a competent court to be entitled thereto, or in case the doubt or dispute is removed by a settlement between the parties, only by the person who is held by the Rent Control Court, to be entitled to the amount or amounts in accordance with such settlement.

12. *Eviction of tenants.*—(1) A tenant shall not be evicted whether in execution of a decree or otherwise except in accordance with the provisions of this section:

Provided that nothing contained in this section shall apply to a tenant whose land-lord is the Government or other public authority notified under this Act:

Provided further that where the tenant denies the title of the land-lord or claims right of permanent tenancy, the Rent Control Court shall decide whether the denial or claim is *bona fide* and if it records a finding to that effect, the land-lord shall be entitled to sue for eviction of the tenant in a Civil Court and such Court may pass a decree for eviction on any of the grounds mentioned in this section, notwithstanding that the Court finds that such denial does not involve forfeiture of the lease or that the claim is unfounded.

(2) A land-lord who seeks to evict his tenant shall apply to the Rent Control Court for a direction in that behalf.—

(a) If the Rent Control Court, after giving the tenant a reasonable opportunity of showing cause against the application, is satisfied—

(i) that the tenant has not paid or tendered the rent due by him in respect of the building within 15 days after the expiry of the time fixed in the agreement of tenancy with his land-lord or in the absence of any such agreement by the last day of the month next following that for which the rent is payable:

Provided that the land-lord has sent a registered notice to the tenant intimating the default and the tenant has failed to pay or tender the rent together with 6¼% thereof by way of penalty and postal charges incurred in sending the notice, within 15 days of the notice by the tenant of the refusal thereof by him:

It shall make an order directing the tenant to put the land-lord in possession of the building and if it is not satisfied it shall make an order rejecting the application thereof by him.

(b) The order directing the tenant to put the land-lord in possession of the building shall not be executed before the lapse of one month from the date of the order of the Rent Control Court and if the tenant deposits arrears of rent with interest and cost of proceedings within a month of such order or such other period as many be allowed by the Rent Control Court, it shall vacate that order.

(3) A land-lord may apply to the Rent Control Court for an order directing the tenant to put the land-lord in possession of the building if he *bona fide* needs the building for his own occupation or the occupation by any member of his family:

Provided that the Rent Control Court shall not give any such direction if the land-lord has another building in his possession in the same City, Town or Village except where the Rent Control Court is satisfied for special reasons, in any particular case it will be just and proper to do so, it may give such direction on any such petition and that only once.

(4) A land-lord may apply to the Rent Control Court for an order directing the tenant to put the land-lord in possession of the building,

(i) if the tenant has without the consent of the land-lord transferred his right under the lease or sublet the entire building or any portion thereof if the lease does not confer on him any right to do so, or

(ii) if the tenant uses the building in such a manner as to destroy or reduce its value or utility materially and permanently, or

(iii) if the tenant subsequently acquires or puts up a building of his own in the same city, town or village.

(5) A land-lord who wants to renovate the building may apply to the Rent Control Court for an order directing the tenant to permit the land-lord to enter and carry out the renovation within a time to be fixed by the Court and the Court may issue such orders as it deems fit and the tenant shall be bound to abide by the orders of Court.

(6) A tenant whose building has been renovated under sub section (5) shall be liable to pay enhanced rent so as to assure the land-lord 3½% interest on the extra expenditure incurred on such renovation.

(7) Where the land-lord of a building, is a religious, charitable, educational or other public institution, it may, if the building is required for the purposes of the institution, apply to the Rent Control Court, for an order directing the tenant to put the institution in possession of the building.

(8) A land-lord who is occupying only a part of a building, may, apply to the Rent Control Court for an order directing any tenant occupying the whole or any portion of the remaining part of the building to put the land-lord in possession thereof, if he requires additional accommodation for his personal use.

(9) Where the tenancy is for a specified period agreed upon between the land-lord and the tenant, the land-lord shall not be entitled to apply to the Rent Control Court before the expiry of such period.

(10) The Rent Control Court shall, if it is satisfied that the claim of the land-lord under subsection (3), (4), (7) or (8) is *bona fide*, make an order directing the tenant to put the land-lord in possession the building on such date as may be specified by the Rent Control Court and if the Court is not so satisfied it shall make an order rejecting the application:

Provided that, in the case of an application under sub-section (8) the Rent Control Court shall reject the application if it is satisfied that the hardship which may be caused to the tenant by granting it will outweigh the advantage to the land-lord:

Provided further that the Rent Control Court may give the tenant a reasonable time for putting the land-lord in possession of the building and may extend such time so as not to exceed three months in the aggregate.

(11) Notwithstanding anything contained in sub-sections (1) to (10) no order for eviction or for putting the land-lord in possession shall be passed,

(i) against any tenant who is engaged in any employment or class of employment notified by the Government as an essential service for the purpose of this subsection, unless the landlord is himself engaged in any employment or class of employment which has been so notified and the land-lord requires the building for his own occupation; or

(ii) in respect of any building which has been let for use as an educational institution and is actually being used as such, provided that the institution has been recognised by the Government or any authority empowered by them in this behalf, so long as such recognition continues.

(12) Where a land-lord who has obtained possession of a building in pursuance of an order under subsection (3) does not himself occupy it within one month of the date of obtaining possession, or having so occupied it, vacates it without reasonable cause within six months of such date, the tenant who has been evicted may apply to the Rent Control Court for an order directing that he shall be restored to possession of the building and the Court shall make an order accordingly notwithstanding anything contained in section 5.

(13) Where a tenant who is entitled to apply for possession under subsection (12) fails to do so within one month from the date on which the right to make the application accrued to him, the Government or the Officer referred to in subsection (1) of Section 5, shall have power, if the building is required for any of the purposes, or for occupation by any of the officers or persons specified in subsection (3) of that section to give intimation to the land-lord that the building is so required, and thereupon the provisions of subsections (5) and (8) of Section 5 shall apply to the building:

Provided that this subsection shall not apply to a building the monthy rent of which does not exceed fifteen rupees.

(14) Where the Rent Control Court is satisfied that any application made by a land-lord for the eviction of a tenant is frivolous or vexatious, the Rent Control Court may direct that compensation not exceeding fifty rupees be paid by such land-lord to the tenant.

(15) Where an application under sub-section (2) or subsection (3) or subsection (4) or subsection (5) or subsection (7) or subsection (8) for evicting a tenant has been rejected by the Rent Control Court, the tenancy shall, subject to the provisions of this Act, be deemed to continue on the same terms and conditions as before and shall not be terminable by the land-lord except on one or more of the grounds mentioned in subsection (2) or subsection (3) or subsection (4) or subsection (5) or subsection (7) or subsection (8).

(16) Notwithstanding anything contained in this section, no person who is receiving or is entitled to receive the rent of a building merely as an agent of the land-lord shall, except with previous written consent of the land-lord, be entitled to apply for the eviction of a tenant.

13. *Payment or deposit of rent during the pendency of proceedings for eviction.*—(1) No tenant against whom an application for eviction has been made by a land-lord under Section 12, shall be entitled to contest the application before the Rent Control Court under that section, or to prefer any appeal under Section 19 against any order made by the Rent Control Court on the application, unless he has paid or pays to the land-lord, or deposits with the Rent Control Court or the appellate authority, as the case may be, all arrears of rent due in respect of the building up to the date of payment or deposit, and continues to pay or to deposit any rent which may subsequently become due in respect of the building, until the termination of the proceedings before the Rent Control Court or the appellate authority, as the case may be.

(2) The deposit of rent under subsection (1) shall be made within the time and in the manner prescribed and shall be accompanied by the fee prescribed for the service of the notice referred to in subsection (5).

(3) Where there is any dispute as to the amount of rent to be paid or deposited under sub-section (1), the Rent Control Court shall, on application made to it either by the tenant or by the land-lord, and after making such inquiry as it deems necessary, determine summarily the rent to be so paid or deposited.

(4) If any tenant fails to pay or to deposit the rent as aforesaid, the Rent Control Court or the appellate authority as the case may be, shall, unless the tenant shows sufficient cause to the contrary, stop all further proceedings and make an order directing the tenant to put the land-lord in possession of the building.

(5) When any deposit is made under subsection (1), the Rent Control Court or the appellate authority, as the case may be, shall cause notice of the deposit to be served on the land-lord in the prescribed manner, and the amount deposited may, subject to such conditions as may be prescribed, be withdrawn by the land-lord on application made by him to the Rent Control Court in that behalf.

14. *Land-lord not to interfere with amenities enjoyed by the tenant*—(1) No land-lord shall, without just or sufficient cause, cut off or withhold any of the amenities enjoyed by the tenant.

(2) A tenant in occupation of a building may, if the land-lord has contravened the provisions of this section, make an application to the Rent Control Court complaining of such contravention.

(3) If the tenant satisfies the Rent Control Court that the amenities were cut off or withheld with a view to compel him to vacate the building or to pay an enhanced rent, the Rent Control Court may pass an interim order, directing the land-lord to restore the amenities immediately, pending the enquiry referred to in subsection (4).

Explanation:—An interim order may be passed under this subsection without giving notice to the land-lord.

(4) If the Rent Control Court on inquiry finds that the tenant has been in enjoyment of the amenities and that they were cut off or withheld by the land-lord without just or sufficient cause, it shall make an order directing the land-lord to restore such amenities and for the purpose of enforcement of such orders, the Rent Control Court may exercise all the powers of a civil court in executing a decree for injunction or restitution.

(5) The Rent Control Court may in its discretion direct that compensation not exceeding fifty rupees—

(a) be paid to the land-lord by the tenant, if the application under subsection (2) was made frivolously or vexatiously;

(b) be paid to the tenant by the land-lord, if the land-lord had cut off or withheld the amenities frivolously or vexatiously.

15. *Execution of orders.*—Every order made under section 12 or section 14 and every order passed on appeal under section 19 or on revision under section 21 shall after the expiry of time allowed therein be executed—

(a) by the District Munsiff or if there are more than one District Munsiff, by the Principal District Munsiff having original jurisdiction over the area in which the building is situated; or

(b) if there is no such District Munsiff, by the Subordinate Judge, or if there are more than one Subordinate Judge, by the Principal Subordinate Judge having original jurisdiction over the area aforesaid; or

(c) if there is no such District Munsiff or Subordinate Judge, by the District Judge having jurisdiction:

Provided that an order passed in execution under this section shall not be subject to an appeal but shall be subject to revision under section 21.

16. *Decisions which have become final not to be re-opened.*—The Rent Control Court shall summarily reject any application under subsection (2) or subsection (3) or subsection (4) or subsection (5) or subsection (7) or subsection (8) of Section 12 which raises between the same parties or between parties under whom they or any of them claim substantially the same issues as have been finally decided or as purport to have been finally decided in a former proceeding under this Act or under the corresponding provisions of any law in force prior to the commencement of this Act or the corresponding provisions of any law repealed or superseded by such law.

17. *Orders of Rent Control Court to be pronounced in open Court.*—Every order passed by a Rent Control Court under this Act shall be pronounced in open Court on the day on which the case is finally heard, or on some future day of which due notice shall be given to the parties.

18. *Conversion into non-residential buildings and failure by land-lord to make necessary repairs.*—(1) No residential building shall be converted into a non-residential building and no residential building shall be divided into separate portions for letting on rent or for other purposes except with the permission in writing of the Accommodation Controller.

(2) Notwithstanding any law, custom, usage or contract to the contrary, the land-lord shall be bound to attend to the periodical maintenance and necessary repairs of the building. If a land-lord fails to attend to such maintenance or repairs to the building within a reasonable time after notice is given by the tenant, it shall be competent for the Accommodation Controller to direct on application by the tenant that such maintenance and repairs may be attended to by the tenant and that the charges and cost thereof may be deducted with interest from the rent which is payable by him.

19. *Appeal.*—(1) (a) The Government may, by general or special order notify in the Gazette, confer on such officers and authorities as they think fit, the powers of appellate authorities for the purposes of this Act, in such areas or in such classes of cases as may be specified in the order.

(b) Any person aggrieved by an order passed by the Rent Control Court may, within fifteen days from the date of such order, prefer an appeal in writing to the appellate authority having jurisdiction.

In computing the fifteen days aforesaid, the time taken to obtain a certified copy of the order appealed against shall be excluded.

(2) On such appeal being preferred, the appellate authority may order stay of further proceedings in the matter pending decision on the appeal.

(3) The appellate authority shall send for the records of the case from the Rent Control Court and after giving the parties an opportunity of being heard and, if necessary, after making such further inquiry as it thinks fit either directly or through the Rent Control Court, shall decide the appeal.

Explanation:—The appellate authority may, while confirming the order of eviction passed by the Rent Control Court, grant an extension of time to the tenant for putting the land-lord in possession of the building.

(4) The decision of the appellate authority, and subject to such decision, an order of the Rent Control Court shall be final and shall not be liable to be called in question in any Court of law, except as provided in section 21.

20. *Costs.*—Subject to such conditions and limitations, if any, as may be prescribed, the costs of and incident to all proceedings before the Rent Control Court or the appellate authority referred to in section 19 shall be in the discretion of the Rent Control Court or the appellate authority which shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose.

Explanation:—The appellate authority may set aside or vary any order passed by the Rent Control Court in regard to the costs of and incident to the proceedings before it.

21. *Revision.*—(1) The High Court, in the case of an authority specified in section 15 to execute an order and the District Court concerned in the case of any appellate authority empowered under section 19 may, at any time, on the application of any aggrieved party, call for and examine the records relating to any order passed or proceedings taken under this Act by such authority for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceedings, and may pass such order in reference thereto as it thinks fit.

(2) The costs of and incident to all proceedings before the High Court or District Court under subsection (1) shall be in its discretion.

22. *Order under the Act to be binding on sub-tenants.*—Any order for the eviction of a tenant passed under this Act shall be binding on all sub-tenants under such tenant, whether they were parties to the proceeding or not, provided that such order was not obtained by fraud or collusion.

23. *Proceedings by or against legal representatives.*—(1) Any application made, appeal preferred, or proceedings taken, under this Act by or against any person, may, in the event of his death, be continued by or against his legal representatives.

(2) Where any application, appeal or other proceeding could have been made, preferred or taken, under this Act by or against any person, such application, appeal or other proceedings may in the event of his death be made, preferred or taken by or against his legal representatives.

24. *Summonses to public servants.*—Subject to such conditions and limitations as may be prescribed, the Rent Control Court or Accommodation Controller may, in its or his discretion, issue summonses to public servants or persons if found necessary requiring them to attend in person to give evidence or to produce documents in their custody in connection with any proceedings before it or him.

25. *Exemptions.*– Notwithstanding anything contained in this Act, the Government may, by notification in the Gazette exempt any building or class of buildings from all or any of the provisions of this Act.

26. *Executive authorities of local bodies to furnish certified extracts from property tax assessment books.*—The executive authority of a municipal council or panchayat or the Revenue Officer of the Corporation of Trivandrum, shall, on application made in this behalf and on payment of such fee as may, from time to time, be fixed by the Government by notification in the Gazette, grant to the applicant a certified copy of the extract from the property tax assessment book of the municipal council, or panchayat or the Corporation of Trivandrum, as the case may be, showing the rental value of the building or buildings in respect of which application has been made, relating to the

period specified in the application. Such certified copy shall be received as evidence of the facts stated therein, in proceedings under this Act.

27. *Land-lord and tenant to furnish particulars.*—Every landlord and every tenant of a building shall be bound to furnish to the Rent Control court or any person authorised by it in that behalf, such particulars in respect of the building as may be prescribed by rules made under this Act.

28. *Penalties.*—If any person contravenes any of the provisions of sub-sections (1), (2), (4), (5), and (7) of section 5, sub-section (1) (a) and (2) (a) of section 9, sub-section (1) of section 14, sub-section (1) of section 18 and section 27, he shall be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two thousand rupees or with both.

29. *Power to make rules.*—(1) The Government may make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the procedure to be followed by Rent Control courts, Accommodation Controllers and appellate authorities in the performance of their functions under this Act;

(c) the manner in which notices and orders under this Act shall be given or served;

(d) setting aside *ex parte* orders passed under this Act;

(e) applications for making legal representatives of deceased persons, parties to proceedings under this Act and the time within which such applications shall be preferred;

(f) fixing the number and qualification of persons to be appointed to be the Rent Control Court;

(g) the order of priority in which building have to be allotted among the applicants;

(h) all matters which are to be or may be pescribed.

(3) In making a rule under this section, the Government may provide that a person who contravenes any of the provisions thereof shall be punishable with fine which may extend to two thousand rupees.

(4) All rules made under this section shall be published in the Gazette.

(5) All rules made under this Act shall be laid for not less than seven days before the Legislative Assembly as soon as possible after they are made and shall be subject to such modifications as the Legislative Assembly may make during the Session in which they are so laid.

30. *Continuance in force of existing proceedings, orders, etc.*—(1) All proceedings commenced or deemed to have been commenced and all actions taken or deemed to have been taken under the Travancore-Cochin Buildings (Lease and Rent Control) Order, 1950, or the Madras Buildings (Lease and Rent Control) Act, 1949, and pending at the commencement of this Act

shall, so far as may be, deemed to have been commenced or taken under the corresponding provisions of this Act and be continued subject to the provisions of this Act.

(2) All orders passed or deemed or purporting to have been passed and all decisions given or deemed or purporting to have been given under the Travancore-Cochin Buildings (Lease and Rent Control) Order, 1950 or the Madras Buildings (Lease and Rent Control) Act, 1949, and in which fair rent has been fixed, shall continue in force until they are superseded or modified under this Act by the authority competent to do so.

31. *Protection of action taken in good faith.*—(1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule, order or direction made or issued thereunder.

(2) No suit or other legal proceeding shall lie against the Government, any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the Act, any rule, order, or direction made or issued thereunder.

32. *Repeal.*—The Travancore-Cochin Buildings (Lease and Rent Control) Order, 1950, and the Madras Buildings (Lease and Rent Control) Act, 1949, as in force in the Malabar District referred to in sub-section (2) of Section 5 of the States Reorganisation Act, 1956 and Section 13 of the Travancore-Cochin Public Safety Measures Act, 1950 are hereby repealed.

SCHEDULE.

I. *Trivandrum District.*

1. Corporation of Trivandrum
2. Neyyattinkara Municipality
3. Attingal Municipality

II. *Quilon District.*

4. Quilon Municipality
5. Punalur Panchayat

III. *Alleppey District*

6. Kayamkulam Municipality
7. Mavelikara Municipality
8. Alleppey Municipality
9. Thiruvalla Municipality
10. Shertallai Municipality

IV. *Kottayam District.*

11. Kottayam Municipality
12. Changanacherry Municipality
13. Vaikom Municipality
14. Palai Municipality
15. Mundakayam Panchayat
16. Urban areas of Munnar

V. *Trichur District.*

17. Ernakulam Municipality
18. Mattancherry Municipality including Palluruthy Village
19. Fort Cochin Municipality
20. Trichur Municipality
21. Irinjalakuda Municipality
22. Kunnamkulam Municipality

23. Parur Municipality
24. Alwaye Municipality
25. Perumbavoor Municipality
41. Kidanginad village
42. Nulpuzha village
43. Nenmoni village
44. Muppainad village

VI. *Kozhikode District.*

26. Kozhikode Municipality
27. Nilambur Panchayat
28. Manjeri Panchayat
29. Trikkandiyur Panchayat
30. Feroke Panchayat
31. Neduva Panchayat
32. Badagara Panchayat
33. Kummangode amsom (Nadapuram Panchayat)
34. Pantalayini village (Quilandy Panchayat)
35. Viyyur village (Quilandy Panchayat)
36. Melur village (Quilandy Panchayat)
37. Meladi village
38. Kottooli village, Parayancheri village
39. Nedumgottur village
40. Beypore Panchayat

VII. *Cannanore District.*

45. Cannanore Municipality
46. Tellicherry Municipality
47. Azhikode amsom
48. Pappinisseri Panchayat
49. Puzhathi amsom
50. Chirakkal amsom
51. Cannanore contonment
52. Kuthuparamba amsom
53. Vemom amsom
54. Kasargod
55. Kannangad
56. Payyanur

VIII. *Palghat District.*

57. Palghat Municipality
58. Chittur-Tattamangalam Municipality
59. Ottapalam Panchayat and
60. Ponnani Panchayat

STATEMENT OF OBJECTS AND REASONS.

The leasing of buildings and the fixing of rent payable in respect thereof are now being regulated and controlled by the Travancore-Cochin Buildings (Lease and Rent Control) Order, 1950 in the Travancore-Cochin portion of the State and by the Madras Buildings (Lease and Rent Control) Act, 1949 in the areas transferred from Madras. It is considered necessary to continue the provisions for regulating leasing of buildings and for fixing the rent of buildings for some time more. The present Bill is intended to unify the laws in force in the two portions of the State by a common measure.

The Act applies to areas specified in the Schedule. A provision is made that the extension of the provisions of the Act to areas where it is not in force may be at the request of the concerned local authority. Provision is also made to withdraw the operation of the Act when similar requests are made by local authorities for the purpose.

The accommodation work is entrusted to the Accommodation Controllers and the fixation of fair rent and connected matters are entrusted to the Rent Control Courts. Provision has also been made for the constitution of Advisory Boards to advise the Accommodation Controller on matters to be prescribed.

FINANCIAL MEMORANDUM

Section 3 of the Bill provides for the constitution of Rent Control Courts. Now the Munsiffs are performing the functions of Rent Control Courts. If this practice is to continue no additional expenditure is likely to be involved. But if new Rent Control Court is to be constituted with more than one member and that too a non-official, then additional expenditure may be involved by way of his sitting fee and T. A. Nothing can be said about it definitely now. This section also provides for the appointment of Accommodation Controller. Now the Revenue Divisional Officers are performing the functions of Accommodation Controllers. If this is to continue no additional expenditure will be involved in this connection also.

The question of incurring expenditure arises only under section 4 which deals with the constitution of the Advisory Board. Expenditure may have to be incurred by way of T. A. to the members. It is not possible to forecast this expenditure as the details regarding the number of meetings of this Board per year, the place of meeting, the distance to be travelled by each member etc. are not known. Section 19 and 21 provide for appeal and revision respectively. No additional expenditure is likely to be involved on this account.

V. R. KRISHNA IYER.

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